

1 IN RE :

2  
3 DAN LOUNSBERY, 8/17/89 :

4 :  
5 And :  
6 :

COPY

7 DAVE YEAGER :

8 RE: Pozzo Mack

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13  
14 Transcription of audiotape,  
15 transcribed on April 26, 2004 by Lisa M.  
16 Dove, Professional Shorthand Reporter and  
17 Notary Public.

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21  
22 ESQUIRE DEPOSITION SERVICES  
23 1880 John F. Kennedy Boulevard  
15th Floor  
Philadelphia, Pennsylvania 19103  
24 (215) 988-9191

EXHIBIT

P-723

1 MR. LOUNSBERY: -- assigned  
2 territory that Mr. Mills has been  
3 dropping in.

4 MR. YEAGER: Oh, yeah.

5 MR. LOUNSBERY: Yeah, and,  
6 you know, like the way we operate here  
7 is, you know, we like to protect our  
8 backyard the best we can.

9 MR. YEAGER: Uh-huh.

10 MR. LOUNSBERY: And, you  
11 know, we likewise expect other Mack  
12 dealers to do the same, and, you know, I  
13 don't -- I don't want a bad situation  
14 for either one of us.

15 MR. YEAGER: But --

16 MR. LOUNSBERY: What I'm  
17 basically saying is that, you know, we  
18 need to keep Mills out of -- let's see  
19 here. Barry and Cass and Saint Joe  
20 counties, and Lower Van Buren in the  
21 southeast corner of Kalamazoo.

22 MR. YEAGER: What's your  
23 position up there?

24 MR. LOUNSBERY: Parts

1 manager.

2 MR. YEAGER: Parts manager.  
3 What's your name again?

4 MR. LOUNSBERY: Dan  
5 Lounsbery, L-O-U-N-S-B-E-R-Y.

6 MR. YEAGER: Okay. And  
7 you're working for who again?

8 MR. LOUNSBERY: Pozzo,  
9 P-O-Z-Z-O.

10 MR. YEAGER: Okay. Got it  
11 in perspective here a little bit.

12 MR. LOUNSBERY: Right.

13 MR. YEAGER: Dan, that's  
14 hard to do. We do sell parts and trucks  
15 and things all over, and that's part of  
16 the system. I know a lot of Mack  
17 dealers, you know, like to get together  
18 and conspire to stay out of each other's  
19 territories and that kind of thing,  
20 but --

21 MR. LOUNSBERY: Yeah,  
22 because well, with the exception of  
23 yourself, you know, we -- everybody else  
24 is under the, you know, the understanding

1 that, you know, well if somebody in my  
2 territory wants to buy from you, you  
3 know, it's strictly over the telephone by  
4 a commercial carrier. There's no actual  
5 physical representations as far as  
6 company personnel or vehicle. I mean,  
7 you know, if they want to use your 800  
8 number and call you for your prices and  
9 your prepaid shipping, that's fine. But,  
10 you know, as far as actually having a  
11 vehicle and a person come into the  
12 territory, that's a no-no.

13 MR. YEAGER: Well, see  
14 that's -- you know, the dealers that kind  
15 of have relationships with some of the  
16 upper echelon there at Mack at the  
17 district levels and so on and so forth,  
18 they can get just about as big a  
19 territory as they want, you know, and  
20 they gobble up all the real estate and  
21 they want everybody to stay out of it.

22 MR. LOUNSBERY: Well, you  
23 know, I'm not familiar with that higher  
24 echelon yet. I've only been parts

1 manager here for six months. But, you  
2 know, I do know that Mr. Mills putting a  
3 dent in what rightfully should be ours.  
4 And by the way when we do sell to  
5 somebody outside of our district, except  
6 for, you know, the items you basically  
7 have to give away like filter kits,  
8 engine -- you know your basic end frame  
9 with the popular stuff, everything goes  
10 out of here at B code if it's out of our  
11 territory, and that's strictly done over  
12 the telephone by a commercial carrier.  
13 And, you know, I was just calling to  
14 request that you do the same.

15 MR. YEAGER: I see. Well,  
16 whose the manager down there at the place  
17 that you work at?

18 MR. LOUNSBERY: Bob Neitzel,  
19 N-E-I-T-Z-E-L.

20 MR. YEAGER: He's the what,  
21 general manager?

22 MR. LOUNSBERY: He's the  
23 branch manager. Yes, sir.

24 MR. YEAGER: But Pozzo owns

1 it, right?

2 MR. LOUNSBERY: Well, right,  
3 uh-huh. We're an associate dealer of the  
4 Gary store, correct.

5 MR. YEAGER: Okay. How did  
6 you come by calling me then?

7 MR. LOUNSBERY: Well, I just  
8 figured that you would be the one to talk  
9 to. You are the parts manager.

10 MR. YEAGER: Well --

11 MR. LOUNSBERY: You're very  
12 familiar with what Mills' got going on.  
13 And, you know, I don't like to pull the  
14 plug on anybody. I think the world of  
15 Mr. Mills. I used to work with him in  
16 Kalamazoo.

17 MR. YEAGER: Uh-huh.  
18 Well --

19 MR. LOUNSBERY: But, you  
20 know, we are not asking for him to leave  
21 that much alone. I mean there's only,  
22 well, three full counties and half of --  
23 well, half of one and maybe a quarter of  
24 another.

1 MR. YEAGER: Uh-huh.

2 MR. LOUNSBERY: Which is a  
3 very southeastern part of the state  
4 here -- southwestern, excuse me.

5 MR. YEAGER: What about the  
6 Mack dealers on the other sides of you?

7 MR. LOUNSBERY: Oh, geez.  
8 Didn't you get the report on annual  
9 purchases from Ray Page? Grand Rapids is  
10 a joke.

11 MR. YEAGER: Uh-huh. I see.  
12 I see. They're not doing that well up  
13 there?

14 MR. LOUNSBERY: Oh, Jesus  
15 Christ. I mean, you know, I looked at  
16 their '88 purchases and I was just  
17 dumbfounded.

18 MR. YEAGER: What's the  
19 problem?

20 MR. LOUNSBERY: It was  
21 probably one quarter of what I thought it  
22 would be.

23 MR. YEAGER: What's the  
24 problem?

1 MR. LOUNSBERY: I have no  
2 idea. Probably just lack of personnel.  
3 I mean the Mack system isn't all that  
4 easy for a lot of people to grab ahold  
5 of.

6 MR. YEAGER: Well, do you  
7 get up into their territory?

8 MR. LOUNSBERY: No, sir.  
9 Certainly don't. I told you, we just --  
10 we operate within our own. Anything we  
11 do out of our territory is over the phone  
12 and it's B code pricing. It goes by  
13 commercial carrier.

14 MR. YEAGER: And you don't  
15 have any Mack dealers on the other side  
16 of you coming in?

17 MR. LOUNSBERY: No, sir.  
18 We've already -- we straightened clients  
19 out. We've got an understanding which  
20 I've already explained to you.

21 MR. YEAGER: Who do you talk  
22 to down there?

23 MR. LOUNSBERY: Well, as a  
24 matter of fact, that was done with Bob



1 and our outside salesman, Dan Arbuckle.  
2 I have no idea who they spoke with but, I  
3 would assume it was the parts manager  
4 down there.

5 MR. YEAGER: They agreed?

6 MR. LOUNSBERY: There is a  
7 firm understanding and they are honoring  
8 it.

9 MR. YEAGER: To stay out of  
10 each other's territory?

11 MR. LOUNSBERY: Correct.

12 MR. YEAGER: I see. Well,  
13 now they're down in Fort Wayne, too,  
14 aren't they?

15 MR. LOUNSBERY: Right,  
16 uh-huh. And I mean, like, you know, if  
17 Waste Management in Fort Wayne calls up  
18 here, hey, we'll accommodate them, but  
19 it's going to be at B code and it's going  
20 to be, you know, by a commercial carrier.

21 MR. YEAGER: Even though  
22 they're on D around the country or what?

23 MR. LOUNSBERY:  
24 Unfortunately, in that particular

1 circumstance, that's -- that's what we  
2 said we had do and we're living by it.  
3 We're trying to discourage them from  
4 buying here.

5 MR. YEAGER: Do they do the  
6 same thing for you guys, then?

7 MR. LOUNSBERY: Yes, sir.  
8 They sure do.

9 MR. YEAGER: I see. Well,  
10 I'll talk to our peoples and see what,  
11 you know, what we -- I don't really know  
12 what to tell you, though, Dan.

13 MR. LOUNSBERY: Well, you  
14 know, because I don't want to see the  
15 situation go any further than it has  
16 right now.

17 MR. YEAGER: What's Mack's  
18 input into this?

19 MR. LOUNSBERY: I don't  
20 know. Why don't you talk to Ray Page and  
21 find out? He's a real wealth of  
22 information.

23 MR. YEAGER: Yeah. Well,  
24 what is his feelings?

1 MR. LOUNSBERY: Mack Trucks  
2 Incorporated believes an assigned  
3 territory is an assigned territory and it  
4 should be respected.

5 MR. YEAGER: Well, does Ray  
6 Page help police that? I mean, how do  
7 you know that you don't say, well, you  
8 know.

9 MR. LOUNSBERY: Well, get a  
10 hold of Ray. Yeah, because, you know, to  
11 tell you the truth, Dave, I've got two  
12 other dealerships that are ready to unite  
13 with me and put you out of business as  
14 far as the State of Michigan, and, you  
15 know, this surrounding area goes. And I  
16 don't want that to happen. It's not good  
17 for you and it's not good for us.

18 MR. YEAGER: Well, that's  
19 got to be Wiggin and D and H, don't it?

20 MR. LOUNSBERY: Well, I'm  
21 not going to mention any names, but the  
22 blueprint's on the drawing board, Bud.  
23 And, you know, if you people want to make  
24 a living at all, you're going to have to

1 start respecting territory.

2 MR. YEAGER: What would Mack  
3 have to stay about that if you guys --

4 MR. LOUNSBERY: They would  
5 probably agree with all three of us.

6 MR. YEAGER: You guys  
7 already get together and worked that out?

8 MR. LOUNSBERY: Hey, now,  
9 I'm not going to go into any specifics.

10 MR. YEAGER: Well, I just --

11 MR. LOUNSBERY: I'm just  
12 making this phone call, because I don't  
13 want it to happen because we got a nice  
14 little thing here that's come a long ways  
15 in a short time and nobody needs any  
16 headaches.

17 MR. YEAGER: Yeah.

18 MR. LOUNSBERY: You  
19 understand what I'm saying?

20 MR. YEAGER: Yeah, I do.

21 MR. LOUNSBERY: Okay. Well,  
22 give Ray Page a call and get a  
23 confirmation that territorial respect is  
24 where it's at.

1 MR. YEAGER: Did you talk to  
2 him about this situation, Dan?

3 MR. LOUNSBERY: Yes, sir, we  
4 have.

5 MR. YEAGER: I see. Is he  
6 aware of these other guys, too?

7 MR. LOUNSBERY: Well, if he  
8 is, I don't know about it, but I'm just  
9 telling you the blueprint's on the  
10 drawing board and if things don't change,  
11 it's going to go forward.

12 MR. YEAGER: Okay. I'll try  
13 to get ahold of Ray. He's not down  
14 there, is he?

15 MR. LOUNSBERY: No, sir.  
16 No, he was in Chicago yesterday.

17 MR. YEAGER: I see.

18 MR. LOUNSBERY: So you might  
19 be able to reach him at the office.

20 MR. YEAGER: Okay. I'll  
21 give him a holler down -- well, I'll get  
22 the number. I'll give him a call.

23 MR. LOUNSBERY: Okay.

24 MR. YEAGER: Thanks, Dan.

1 MR. LOUNSBERY: You bet.

2 MR. YEAGER: Bye.

3 MR. LOUNSBERY: Bye-bye.

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5 Today's date is August 17, 1989. It is  
6 now 11:03 a.m.

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C E R T I F I C A T E

I hereby certify that  
the proceedings and evidence noted are  
contained fully and accurately in the  
notes taken by me from the audiotape of  
the above matter, and that this is a  
correct transcript of the same.

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LISA M. DOVE

April 26, 2004

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